

FILED

NOT FOR PUBLICATION

SEP 28 2007

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

**FILED
Clerk
District Court**

OCT - 1 2007

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JIA HUAN CHEN,

Defendant - Appellant.

No. 06-10336

D.C. No. CR-03-00016-ARM

**For The Northern Mariana Islands
By _____
(Deputy Clerk)**

MEMORANDUM*

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

WEI JUN CHEN,

Defendant - Appellant.

No. 06-10341

D.C. No. CR-03-00016-2-ARM

Appeal from the United States District Court
for the District of the Northern Mariana Islands
Alex R. Munson, Chief District Judge, Presiding

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

Submitted September 24, 2007**

Before: CANBY, TASHIMA and RAWLINSON, Circuit Judges.

Jia Huan Chen appeals from the 78-month sentence imposed upon re-sentencing, following his jury trial conviction for conspiracy to collect extensions of credit by extortionate means and collection of extensions of credit by extortionate means, in violation of 18 U.S.C. §§ 2 and 894. Wei Jun Chen appeals from his guilty-plea conviction and 78-month sentence imposed upon re-sentencing for conspiracy to collect extensions of credit by extortionate means and collection of extensions of credit by extortionate means, in violation of 18 U.S.C. §§ 2 and 894._____

In appeal no. 06-10336, Jia Huan Chen contends that the district court failed to provide notice of its intent to sentence him outside the range suggested by the Sentencing Guidelines as required by Federal Rule of Criminal Procedure 32(h). *See United States v. Evans-Martinez*, 448 F.3d 1163, 1167 (9th Cir. 2006). In light of this court's holding in *United States v. Evans-Martinez*, we vacate Jia Huan Chen's sentence and remand for proceedings consistent with its holding. *See id.*

In appeal no. 06-10341, pursuant to *Anders v. California*, 386 U.S. 738

** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

(1967), Wei Jun Chen's counsel has filed a brief stating there are no grounds for relief, along with a motion to withdraw as counsel of record. No pro se supplemental brief or answering brief has been filed.

Our independent review of the record pursuant to *Penson v. Ohio*, 488 U.S. 75, 80-81 (1988), discloses no grounds for relief on direct appeal in case no 06-10341.

Accordingly, counsel's motion to withdraw is granted, and the district court's judgment is affirmed in case no. 06-10341.

Case no. 06-10336 is **VACATED** and **REMANDED**.

Case no 06-10341 is **AFFIRMED**.